

Order dt. : 28/08/2025

Plaintiff takes no steps. Defendant files hazira.

Today is fixed for passing order in respect of hearing application u/O XXXIX Rule 1 and 2 and application u/O XXXIX Rule 4 of C.P. Code.

Let the case record be taken up for passing order.

Perused the applications, WO thereto and other materials on record.

The bone of the contention of the injunction application is that the plaintiff is a bona fide tenant under the defendant in respect of the suit property by virtue of a long term tenancy agreement. The defendant with intent to induct a new tenant at higher rent, is disturbing the peaceful possession of the plaintiff.

The bone of contention of the application u/O XXXIX Rule 4 of C.P. Code is that the plaintiff is a daughter of the defendant and during illness of the defendant, the plaintiff look after her father and that time by taking opportunity of illness of the defendant, the plaintiff in collusion with her husband obtained some signature of the defendant in some blank papers and thereafter she is trying to drive out the defendant from the suit property.

Considering the contention of the both applications and other materials on record, it appears before this Court that herein the defendant in his application claimed that the plaintiff is his daughter and the said relationship is not disclosed by the plaintiff in any where of her plaint as well as injunction application. The plaintiff also not denied the said relationship by filing any counter affidavit. It is pertinent to mention here that the relief u/O XXXIX Rule 1 and 2 of C.P. Code is an equitable relief and for getting such relief the plaintiff has to come before this Court in clean hand. Considering the contention and counter contention of both parties as well as the nature of allegations as alleged by one father against his daughter, it is clear before this Court that the plaintiff was not come before this Court in clean hand for getting equitable relief. Therefore, the injunction application is liable to be rejected and on the contrary the application for modification of injunction order is required to be allowed.

Hence it is

O R D E R E D

that the application u/O XXXIX Rule 1 and 2 filed by the

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plaintiff is hereby considered and rejected on contest.

The application u/O XXXIX Rule 4 of C.P. Code filed by the defendant is hereby considered and allowed on contest.

Accordingly both the applications are disposed off.

To 05/02/2026 for filing WS and hearing application dt. 29/07/2025 filed by plaintiff.

Let the ad interim order of injunction be vacated.

D/C by me,

Civil Judge (Jr. Divin)
Bidhannagar, North 24 Pgs.
J.O. Code WB 01155.